to have been thus to extend the scope of the old action and at the same time to have created a new action. *Saville* v. *Roberts* (1698) 1 Ld. Raymond 374. The new action might be brought against one or more defendants; 5 Vin. Abr. 416; and when brought against more than one, although there was still an allegation of conspiracy, the action seems to have taken the form of an action against joint tort feasors, rather than against conspirators, and a single defendant might be found guilty. *Skinner* v. *Gunton* (1670) 1 Saund. 228; see 4 COLUMBIA LAW REVIEW 367. The authorities do not hold that no action for conspiracy proper could be brought under the statute. They seem to recognize that in practice this was done; *Saville* v. *Roberts*, supra; but it is probable that the greater likelihood of success under the new action for malicious prosecution caused the action for conspiracy to be less frequently sued.

Conspiracy, at least as an element of damages, seems to be recognized by the modern authorities who deny its existence as a tort; but while the statute required special damage to be proved to maintain the action, that fact would not seem to make damage the gist of the action any more than in the case of deceit, malicious prosecution and slanderous words not actionable per se. *Hood v. Palen* (1848) 8 Pa. St. 237. Where the object of the conspiracy is to be effected by a series of independent torts, it would seem that while each separate tort would give rise to a right of action, these individual torts could be merged in the more comprehensive tort of conspiracy, and this result has been reached in the strike cases. See 1 COLUMBIA LAW REVIEW 123; 2 id. 37, 124, 400; 3 id. 426. The marked modern tendency, as shown by these cases, to find a tort in the mere combining, though none would be found were the act done by an individual, seems to be a recognition in civil law of what has long been punishable in criminal law, and to be within the scope of the statute 21 Ed. I, though not within the favored practice under it. See *State* v. *Heugin* (1901) 110 Wis. 189; *Hawarden* v. *Youghiogheny & L. Coal Co.* (1901) 111 Wis. 545; *Quinn Leathem* [1901] A. C. 495.

COMPENSATION IN ADMIRALTY FOR TORTS RESULTING IN DEATH.—The natural justice of a recovery for torts resulting in death has had a strong influence on judges sitting in admiralty courts in this country. Prior to 1886, decisions, under general maritime law, that such an action would survive, had been rendered in nine district courts, in spite of the concession that, according to English authorities, admiralty could give no relief; but in that year these decisions were overruled in the Supreme Court. *The Harrisburg* (1886) 119 U. S. 199. In a recent case an attempt has again been made to impose this liability by applying the statute of the State where the vessel was owned, though the tort was committed on the high seas. In re *Petition of Old Dominion S. S. Co., etc.* (1904) 32 N. Y. Law J. 971.

There seems to be no question but that the law of the flag governs on a vessel until it comes within another jurisdiction, whether it be explained on the fiction of extension of territory, *Crapo* v. *Kelly* (1872) 16 Wall. 610, or on the ground of convenience or necessity,

Hall's Int. Law, 5th ed., 173, 212, and when two vessels of the same nation collide on the high seas the law of that nation will be applied even in a foreign court. *The Scotland* (1881) 105 U. S. 24. Under our statutes a vessel must be registered in the port nearest the domicil of its owners in order to acquire the privileges and protection of our laws, U. S. Rev. St. §§ 4131, 4141, but the effect of the laws of the State of registry does not seem to be clearly determined. Jurisdiction in admiralty is vested in the federal government by the Constitution, Art. III, Sec. 2, and a State law cannot supersede a federal statute, even though it applies to acts within the territorial jurisdiction of the State. *Butler* v. *Boston S. S. Co.* (1888) 130 U. S. 527. The passing of title to maritime property is regulated by the State law, *Crapo* v. *Kelly* (1872) 16 Wall. 610, but such a law cannot abrogate rights under the general maritime law. *Workman* v. *New York* (1900) 179 U. S. 552. State laws granting maritime liens may be enforced in admiralty courts, *The Lottawanna* (1824) 21 Wall. 558, as may State statutes regulating the fees of pilots, even though the right to the fee be acquired outside the territorial limits of the State. *Cooley* v. *Port Wardens* (1851) 12 How. 299; ex parte *McNiel* (1871) 13 Wall. 236. In *Crapo* v. *Allen* (1849) Fed. Cas. 3360, it is suggested that these latter are contractual or property rights and so subject to State laws; but under the ruling in *Workman* v. *New York*, supra, it would seem that even such a right could not be controlled by the State in contravention of the general maritime law, see 4 COLUMBIA LAW REVIEW 589, nor does the distinction by which the court in that case denies a tort right created by State statute seem satisfactory. In England Lord Campbell's Act has been held not to apply to admiralty, *The Vera Cruz* (1884) 10 App. Cas. 59, but that decision seems to have turned on the construction of the statute, and in this country statutes following that Act have been applied in several instances. *Holmes* v. *Railway Co.* (1880) 5 Fed. 75; in re *Long Island Trans. Co.* (1881) 5 Fed. 599. In these two cases the tort was committed within the territorial limits of the States, but that fact could not determine the federal jurisdiction incident to admiralty practice, as distinguished from State control, and in *The E. B. Ward, Jr.* (1883) 17 Fed. 456, such a State statute was applied to a tort committed on the high seas.

The Supreme Court has not yet passed on this question, but it seems to be a sound principle that while a State cannot impose restrictions on the jurisprudence of federal courts, rights created by the State, not in conflict with that jurisprudence, may be enforced in a federal court, even though for jurisdictional reasons only that court can act. *Holmes* v. *Railway*, supra. This is a well settled rule of federal practice in equity and common law courts, 1 Foster's Fed. Prac., 2nd ed., § 7, and there seems to be no reason why it should not be applied in admiralty.

ULTRA VIRES ACTS OF CORPORATIONS.—Precisely what is the status of an ultra vires contract is not as yet well settled. Where the contract remains executory and is ultra vires in the proper sense, that is, entirely beyond the scope of the powers of the corporation,